

SENATE BILL NO. 393

INTRODUCED BY J. BALYEAT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PARTISAN ELECTION OF SUPREME COURT JUSTICES; AUTHORIZING POLITICAL PARTIES TO ENDORSE, CONTRIBUTE TO, OR MAKE EXPENDITURES TO SUPPORT OR OPPOSE SUPREME COURT CANDIDATES; ALLOWING A CANDIDATE TO BE NOMINATED BY MORE THAN ONE PARTY; PROVIDING THAT IN A GENERAL PARTISAN ELECTION, THE NAME OF A CANDIDATE NOMINATED BY MORE THAN ONE PARTY MUST APPEAR ON THE BALLOT ONCE FOR EACH PARTY REPRESENTED BY THE CANDIDATE; PROVIDING THAT ALL VOTES FOR A MULTIPARTY CANDIDATE IN A GENERAL ELECTION BE TOTALED TO DETERMINE THE WINNER; AMENDING SECTIONS 3-2-101, 13-10-201, 13-10-303, 13-12-203, 13-14-111, 13-14-211, 13-14-212, AND 13-35-231, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-2-101, MCA, is amended to read:

"3-2-101. Number, partisan election, and term of office -- form of ballot on retention. (1) The supreme court consists of a chief justice and six associate justices who are elected by the qualified electors of the state at large at the general state elections next preceding the expiration of the terms of office of their predecessors, respectively, and hold their offices for the term of 8 years from and after the first Monday of January next succeeding their election.

(2) Supreme court justices, including the chief justice, must be nominated and elected on the partisan ballot in the same manner as are other partisan candidates. Each vacancy for justice of the supreme court, including the chief justice, is a separate and independent office for election purposes. The chief justice of the supreme court shall assign an individual number to each office and certify these numbers to the office of the secretary of state.

(3) If there is no candidate other than the incumbent for the office of supreme court justice, the election administrator or secretary of state shall use the form prescribed in 13-14-212 to place the name of an unopposed incumbent for the office on the general election ballot."

1
2 **Section 2.** Section 13-10-201, MCA, is amended to read:

3 **"13-10-201. Declaration for nomination.** (1) Each candidate in the primary election, except
4 nonpartisan candidates filing under the provisions of chapter 14, shall file a declaration for nomination with the
5 secretary of state or election administrator. A candidate may not file for more than one office. Each candidate
6 for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

7 (2) A declaration for nomination must be filed in the office of:

8 (a) the secretary of state for placement of a name on the ballot for the presidential preference primary,
9 a congressional office, a state or district office to be voted for in more than one county, a member of the
10 legislature, or a judge of the district court;

11 (b) the election administrator for a county, municipal, precinct, or district office (other than a member
12 of the legislature or judge of the district court) to be voted for in only one county.

13 (3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of
14 an indigent candidate, send with it the documents required by 13-10-203. The declaration for nomination must
15 be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the
16 filing is made.

17 (4) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by
18 the elector's party. For a partisan election, an elector may not file a declaration for more than one party's
19 nomination, except for an election for an office of justice of the supreme court.

20 (5) (a) The declaration for nomination must be in the form and contain the information prescribed by
21 the secretary of state.

22 (b) A person seeking nomination to the legislature shall provide the secretary of state with a street
23 address, legal description, or road designation to indicate the person's place of residence. If a candidate for the
24 legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state
25 on a form prescribed by the secretary of state.

26 (c) The secretary of state and election administrator shall furnish declaration for nomination forms to
27 individuals requesting them.

28 (6) Declarations for nomination must be filed no sooner than 135 days before the election in which the
29 office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

30 (7) A declaration for nomination form may be sent by facsimile transmission, if a facsimile facility is

1 available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the
2 election administrator or to the secretary of state."

3
4 **Section 3.** Section 13-10-303, MCA, is amended to read:

5 **"13-10-303. Nominations by more than one party.** ¶ Except as provided in subsection (2), if an
6 individual is nominated by more than one party, the individual shall, not later than 10 days after the election, file
7 written notification with the secretary of state or election administrator indicating the party under which the
8 individual's name is to appear upon the ballot for the general election. If the individual fails to notify the proper
9 officers, the individual's name must appear under the party with whom the declaration for nomination was filed
10 if a declaration was filed. If an individual did not file a declaration or acceptance of nomination and fails to notify
11 the proper officers, the individual's name must appear on the ballot without a party designation.

12 (2) In an election for an office of supreme court justice if an individual is nominated by more than one
13 party, the individual's name must appear on the ballot under each party that nominated that individual."
14

15 **Section 4.** Section 13-12-203, MCA, is amended to read:

16 **"13-12-203. Appearance of candidate's name and party designation on ballot.** (1) (a) Subject to
17 13-12-202 and except as provided in 13-10-209 for nonpartisan offices and 13-10-303 for certain other
18 candidates, in partisan elections, candidates' names must appear under the title of the office sought, with the
19 name of the party in not more than three words appearing opposite the name.

20 (b) In a general partisan election for an office of supreme court justice, if an individual is a candidate
21 representing more than one party, the individual's name must appear once for each party for which the individual
22 is the nominated candidate.

23 (2) Subject to 13-12-202, in nonpartisan elections, the candidates' names must appear under the title
24 of the office sought, with no description or designation appearing with the name unless partisan and nonpartisan
25 offices appear on the same ballot. In ~~such a~~ that case, the names of nonpartisan candidates must appear with
26 the words "Nominated without party designation".
27

28 **Section 5.** Section 13-14-111, MCA, is amended to read:

29 **"13-14-111. Application of general laws.** Candidates for nonpartisan offices, including judicial offices
30 other than an office of justice of the supreme court, shall must be nominated and elected according to the

provisions of this title except as otherwise provided in this chapter."

Section 6. Section 13-14-211, MCA, is amended to read:

"13-14-211. Judicial offices separate and independent offices for election purposes. ~~(1) Each vacancy for justice of the supreme court is a separate and independent office for election purposes. The chief justice of the supreme court shall assign an individual number to the justices and certify these numbers to the office of the secretary of state.~~

~~(2)~~(1) Each vacancy for judicial office in a district which has more than one district judge is a separate and independent office for election purposes.

~~(3)~~(2) Each vacancy for office in a county which has more than one justice of the peace is a separate and independent office for election purposes."

Section 7. Section 13-14-212, MCA, is amended to read:

"13-14-212. Form of ballot on retention of certain incumbent judicial officers. If there is no candidate other than the incumbent for the office of ~~chief justice, supreme court justice,~~ district court judge; or justice of the peace, the name of the incumbent must be placed on the official ballot for the general election as follows:

Shall (insert title of officer) (insert name of the incumbent officer) of the (insert title of the court) of the state of Montana be retained in office for another term?

Following the question, provision must be made, subject to rules adopted pursuant to 13-12-202, for a voter to indicate a "yes" or "no" vote."

Section 8. Section 13-35-231, MCA, is amended to read:

"13-35-231. Unlawful for political party to endorse judicial candidate -- exception. A political party may not endorse, contribute to, or make an expenditure to support or oppose a judicial candidate, except a candidate for an office of supreme court justice."

NEW SECTION. **Section 9. Counting votes for candidate nominated by more than one party.** In a general election for an office of supreme court justice, votes for an individual whose name appears on the ballot more than once, as provided in 13-12-203, including votes cast for the individual as a write-in candidate,

1 must be totaled. The aggregate number of votes received by the individual, irrespective of party affiliation, must
2 be used in determining the winner of the election.

3
4 NEW SECTION. Section 10. Codification instruction. [Section 9] is intended to be codified as an
5 integral part of Title 13, chapter 15, part 2, and the provisions of Title 13, chapter 15, part 2, apply to [section 1].

6
7 NEW SECTION. Section 11. Saving clause. [This act] does not affect rights and duties that matured,
8 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

9
10 NEW SECTION. Section 12. Effective date. [This act] is effective January 1, 2006.

11
12 NEW SECTION. Section 13. Applicability. [This act] applies to elections for offices of supreme court
13 justice occurring on or after [the effective date of this act].

14 - END -